REMARKS/ARGUMENTS

In the restriction requirement dated October 1, 2007, the Examiner delineated the following inventions as being patentably distinct.

Group I: Claims 4-6 and 13, drawn to kits comprising an antibody directed against BDNF, classified in class 530, subclass 387.1.

Group II: Claims 7-10, drawn to methods of detecting an eating disorder comprising measuring BDNF concentrations in blood, classified in class 435, subclass 7.1.

Applicants provisionally elect, with traverse, the invention of Group II, Claims 7-10, drawn to methods of detecting an eating disorder comprising measuring BDNF concentrations in blood.

Restriction is only proper if the claims of the restricted are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted groups are independent or patentably distinct. Restriction between a method of detecting an eating disorder and the kit containing an antibody directed against BDNF is proper only when other methods can be used to detect eating disorders. Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not provided sufficient reasons to support patentable distinctness. The arguments presented by the Examiner are not supported by any evidence. The kit containing the antibody is precisely for detecting BDNF and as a consequence of that, one can treat the individual with an eating disorder. It is a direct relationship for the detection of BDNF and the eating disorder treatment.

Method of detecting and the composition (kit) especially adapted for the claimed method should be examined together on the merits, especially wherein the sole disclosed

utility of the claimed kit is that recited in the specification. Different classification of subject to be divided is not conclusive proof of independent status and divisibility.

The inventions of Groups I and II are considered related inventions under 37 C.F.R. §1.475(b) and unity of invention between the groups exists.

Applicants respectfully traverse on the grounds that the Office has not shown that a burden exists in searching the entire application.

Further, the M.P.E.P. §803 states as follows:

> If the search and examination of an entire application can be made without a serious burden the Examiner must examine it on the merits even though it includes claims to distinct and independent inventions.

Applicants submit that a search of all the claims would not constitute a serious burden on the Office. In fact, the International Search Authority has searched all of the claims together. As the Office has not shown any evidence that restriction should now be required when the International Preliminary Examination Report did not, the Restriction is believed to be improper. 37 C.F.R. §1.475(b) provides in relevant part that "a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to product, manufacture of said product and use of said product."

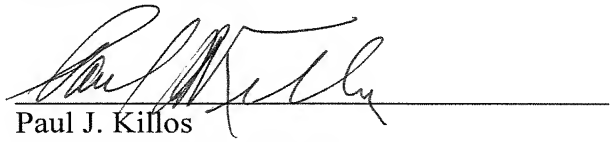
For the reasons recited above, Applicants request that the Restriction Requirement be withdrawn.

Further, Applicants reserve the right to file a divisional application on the non-elected subject matter, if so desired, and be accorded the benefit of the filing date of the parent application.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits and an early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Paul J. Killos
Registration No. 58,014

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)